

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Town of Richfield for a determination of the adequacy of warning devices at the Public Crossing of the Wisconsin Central Ltd. (WCL) Tracks with Lakeview Road in the Town of Richfield, Washington County.

9164-RX-457

FINAL DECISION

By letter dated June 28, 2001, the Town of Richfield filed a petition with the Office of the Commissioner of Railroads (OCR) for a determination under §§195.28 Stats, of the adequacy of warning devices at the grade crossing of the Wisconsin Central Ltd. (WCL) tracks with Lakeview Road and others in the Town of Richfield, Washington County. Lakeview Road is crossing number 692 265L. The Commissioner, after initial investigation, directed OCR Staff to further investigate the Lakeview Road crossing for possible closure under §195.29 Stats.

Pursuant to due notice, public hearing was commenced in this matter on August 14, 2003 at the Richfield Town Hall at Hubertus, Wisconsin with hearing examiner David J. Meier presiding.

Appearances:

Parties

In Support:

Wisconsin Central LTD.
By
Terry Lee, PE
Engineer Planning
1625 Depot Street
Stevens Point, Wisconsin 54481

In Opposition:

Various members of the Richfield Town Board

Of the Office Staff:

David Schwengel, Rail Safety Analyst

In addition to the parties, 52 persons registered at the hearing. Those registrants opposing closure of the Lakeview crossing exceeded those favoring closure by a ratio of about 4 to 1. Further, of those favoring closure of the crossing, several were motivated by the prospects of obtaining a “quiet zone” in their community to silence the blowing of train whistles.

The Quiet Zone

Prior to commencing hearing with regard to Lakeview Road, the Commissioner of Railroads and the hearing examiner in this proceeding addressed the Richfield Town Board and many Town of Richfield citizens, at a Town Board meeting, to discuss what might be required, under the laws in existence then, for the Town to gain quiet zone status at all of its crossings of the Wisconsin Central LTD. tracks. At that time (July 17, 2003), an Order had been entered in this proceeding for the installation of signal upgrades at virtually all at-grade crossings in the Township. The cost of those upgrades, funded by this Office, amounted to about \$350,000.00. One effect of those upgrades, in addition to providing significant safety benefits to the public in Richfield Township, was to provide a base level of crossing safety, brought to current industry standards at State/ Federal expense, on which the Township, with some safety enhancements, might build its case for a quiet zone.

The single Town crossing of the Wisconsin Central LTD. tracks not meeting current industry standards is the Lakeview Road crossing, which is the subject of this hearing process and this decision. The task of making this crossing safe for travelers stands both as a duty of this Office and as a prerequisite to obtaining a quiet zone. While the Office continues to support the idea of a quiet zone in the Town of Richfield, the order set forth below is based solely on the duty of this Office to ensure safe railroad crossings in this State.

FINDINGS OF FACT

Lakeview Road is 22' wide and intersects the Wisconsin Central, LTD. tracks at an angle of 80°. In 2001, it carried 268 Average Daily Traffic (ADT). Six school buses on an average school day use the crossing as well as a significant number of emergency vehicles. The legal speed limit on Lakeview Road is 45 miles per hour (MPH).

The Wisconsin Central, LTD. operates about 30 trains per day through the crossing at a timetable speed of 50 MPH. The volume of train traffic is expected to increase over time, while the train speed is expected to remain at about 50 MPH. The crossing consists of one main line track.

The Lakeview Road crossing presently has reflective cross bucks and stop signs for warning devices. These warning devices are not adequate. In order to adequately protect public safety, gates, 12-inch LED flashing lights and constant warning time circuitry is needed because of the limited ability to provide adequate sight distances.

The roadway approaches to the crossing are non-compliant with AASHTO (American

Association of State Highway and Transportation Officials) standards. The deficiencies in compliance are with respect to approach grades and sight distances. An analysis contracted to be done by this Office and performed by Safety Engineering Associates concluded that the approach to the crossing from the east declined at a 10% grade. Sight distances are deficient as follows:

Approaching Sight Distances: A motorist traveling at 45 MPH on level roadway requires a safe stopping distance of 360'. This distance as relates to the Lakeview Road crossing must be increased by a factor of 1.24 by reason of the reported 10% declining grade into the crossing for westbound traffic. Therefore, the safe stopping sight distance for westbound traffic is 446'. The crossing first becomes visible to westbound drivers at a distance of 390'. The approaching sight distance for westbound traffic is inadequate. This lack of sufficient sight distance becomes more evident and exacerbated when one considers the shortened stopping distance available when a westbound driver discovers other traffic stopped in front of him at the crossing.

The above analysis assumes the recognition of an occupied crossing by the driver of a vehicle looking to the crossing straight down the roadway. Actually, a motorist traveling at 45 mph must see a train approaching the crossing at 50 mph when it is 525' down the track from the safe stopping distance, in this case 446' prior to reaching the crossing. The sight distance available in each quadrant from the safe stopping distance is as follows: 20' in the northwest quadrant, 20' in the northeast quadrant, 100' in the southeast quadrant and 40' in the southwest quadrant. Sight distance is inadequate in all four quadrants.

The approaching sight distance formula used above takes into consideration the effects of wet pavement on stopping distance. However, it ignores the effects of snow and ice on stopping distances. This west facing approach to the crossing is susceptible to the freeze/thaw effects of our Wisconsin winters. Therefore, the grade into this crossing must be reduced enough to provide a reasonable expectation of safety to the motoring public. If the crossing is to remain open to the public, it will be necessary to provide an approach grade of not more than 6% on the easterly approach to the crossing.

Clearing Sight Distances: A motorist, having stopped at a 90 degree crossing, must see a train traveling at 50 mph when it is at least 515' down the tracks in order to make a decision and proceed safely. The driver of a school bus in the same circumstance requires 995'. Due to curvature of the tracks both north and south of the crossing, it is not possible to provide adequate clearing sight distance at this crossing. Therefore, if this crossing is to remain open to the public, it will be necessary to provide gates, 12-inch LED flashing lights and constant warning time circuitry.

There have been three accidents at this crossing in recent years, the last two occurring in 1998 and 2000. Accidents at this crossing have a high likelihood of being serious or fatal due to the relatively high train speeds. Crossings with train speeds in excess of 40 mph, according to statistics compiled by the Federal Railroad Administration, bear a disproportionately large number of fatal accidents. That Agency's records showed that, in 1994, while only 26% of all crossings had train speeds in excess of 40 mph, that minority of crossings produced 71% of the accidents which resulted in fatalities. The fact that this crossing is regularly used by school buses makes this statistic even more compelling.

Alternate routes into and out of the area served by Lakeview Road do exist in Willow Creek Road, about ½ mile to the south and Bark Lake Road, about one mile to the north. However, one of the four stations of the Town's Volunteer Fire Department, a station which handles emergency medical response only, lies about ½ mile northeast of the Lakeview crossing between Lakeview Road and Bark Lake Road. Representatives of that organization strongly objected to a closure of the Lakeview crossing on the basis of additional response time that would be required because of the necessity to divert to one of the alternate crossings. This diversion would, to some extent, apply to both emergency response personnel getting to that station as well as the emergency response vehicle needing to cross the tracks to serve westerly parts of their service area. The delay caused would be relatively minimal in good driving conditions, but could become exaggerated in snowy conditions due to the congested nature of about 1/8 mile of the alternate route along the southwest shore of Bark Lake.

It is unfortunate that this Office and the Fire Department find themselves, each undertaking to provide for public safety, with conflicting needs in the delivery of that safety to the public. It has been suggested that a relocation of the station might be feasible and would alleviate the problem that would be posed by a closure of the Lakeview crossing. However, that alternative has not been addressed in a positive manner and it is beyond the purview of this proceeding and the authority of this Office to investigate and order such a remedy. This Office is, however, faced with the immutable topographical facts that exist in the grade of the approach to the crossing as well as the attendant visual restrictions described above. This office cannot carry out its duties while ignoring those characteristics to leave the crossing open.

A reasonable standard for the reconstruction of the easterly approach to the crossing would provide the following:

The Town of Richfield has requested, and this Office has agreed, that a period of one year be granted for the Town to investigate and perform such re-grading and reconstruction of Lakeview Road as might be necessary to have it meet the above described standard so that the crossing might remain open for public use. The Town has further requested that, in the event of such successful re-grading and reconstruction of Lakeview Road, that this Office order that it remain open and be adequately protected by gates, flashing lights and constant warning time circuitry.

The Order, therefore, closes the crossing of the Wisconsin Central, LTD tracks by Lakeview Road in the Town of Richfield, Washington County before January 1, 2006. The Order of closure will be reviewed and rescinded, however, in the event that the Town of Richfield, in the intervening time, performs those renovations and otherwise complies with the below Order.

The order requires the Wisconsin Central, LTD. to remove the crossing surfaces and the roadway surface from within its right-of-way at Lakeview Road between December 10 and December 20, 2005. The Order also requires the Township of Richfield to install Type III barricades with red and white reflective material on each approach to that crossing by December 10, 2005. These are temporary barricades that the Town is required to replace with permanent steel guard rail barricades when it constructs the vehicle turnarounds.

The Order requires the Town of Richfield to install and Wisconsin Central, LTD. to pay for a

vehicle turnaround area on both approaches to the existing Lakeview Road crossing. The Town of Richfield may construct any non-cul de sac turnaround design consistent with the AASHTO's, "A Policy on Geometric Design of Highways and Streets", 1994. Specifically, the Commissioner approves L-type, T-type, Y-type or I Branch turnarounds as shown in Figure V-1. These turnaround designs are adequate for the low volume of traffic that would be on Lakeview Road after the crossing is closed.

In summary, the closure of the crossing at-grade of the Wisconsin Central, LTD tracks with Lakeview Road will promote public safety and convenience by eliminating a point of potential conflict between trains and vehicles made unusually dangerous by topographic features.

FINDINGS OF ULTIMATE FACT

1. That the closure of the crossing at-grade of the Wisconsin Central, LTD. tracks with Lakeview Road in the Town of Richfield, Washington County will promote public safety.

2. That it is reasonable that the Wisconsin Central, LTD. bear the cost to close the Lakeview Road crossing, including the construction of vehicle turnarounds, removal of the crossing and the roadway approaches within its right-of-way.

3. That it is reasonable that the Town of Richfield shall bear the costs to install and maintain barricades on Lakeview Road.

4. That it is reasonable to defer implementation of this Order for a period of one year to allow the Town of Richfield to fully investigate, contract for and complete the re-grading and reconstruction of the Lakeview Road easterly approach to the Wisconsin Central, LTD. tracks to provide a clear view of the crossing from a point 446' easterly thereof and 3'6" above the pavement, an area of roadway within 30' of the center of the tracks which is level to within 6" below and 3" above the elevation of the top of the near rail, and an approach declining from a point 446' east of the east rail to a point 30' east of the center line of the tracks which does not exceed 6% in grade.

5. That it is reasonable to require, in exchange for such deferral of closing, that the Town of Richfield reduce the speed limit on Lakeview Road pending completion of reconstruction and installation of gates, lights and constant warning time circuitry from 45 MPH to 30 MPH.

6. That it is reasonable to require that the Town of Richfield indicate its intent to improve the easterly approach to the Lakeview crossing by approving the terms of this Order at its meeting of November 18, 2004 and by providing to this Office periodic reports of progress in the engineering, contracting and reconstruction thereof.

PROPOSED CONCLUSION OF LAW

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

PROPOSED ORDER

1. That the **Wisconsin Central, LTD.** shall remove the crossing surface and the roadway approaches within their right-of-way for the crossing at-grade of **Lakeview Road** with their tracks in the Town of Richfield, Washington County between **December 10, and December 20, 2005.** (crossing no. 692 265L)

2. That the **Town of Richfield** shall install Type III barricades with red and white stripes at or near the terminus of each approach to the crossing at-grade of **Lakeview Road** with the Wisconsin Central, LTD. tracks in the Town of Richfield, Washington County between **December 1, and December 10, 2005** [see Sections 3F-1, 6C-8 and Figure 6-14 in the Manual on Uniform Traffic Control Devices (MUTCD)].

3. That the **Town of Richfield** shall install and maintain L-type, T-type, Y-type or I Branch turnarounds at or near the termini of **Lakeview Road** consistent with American Association of State Highway and Transportation Officials (AASHTO) guidelines (1994 edition, pages 433-435 and Figure V-1) in the Town of Richfield, Washington County by **December 20, 2005.**

4. That the **Town of Richfield** shall install and maintain a steel guard rail barricade with reflective red and white stripes at or near the terminus of the approaches on each side of the crossing at-grade of **Lakeview Road** with the Wisconsin Central, LTD. tracks in the Town of Richfield, Washington County by **April 1, 2006.**

5. That the **Wisconsin Central, LTD.** shall give notice in writing to the Town of Richfield at least 10 days prior to commencing work to close the crossings.

6. That the **Wisconsin Central, LTD.** shall bear the cost to close the **Lakeview Road** crossing, including the construction of vehicle turnarounds, removal of the crossing and the roadway approaches within its right-of-way. The **Wisconsin Central, LTD.** shall also bear any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

7. That the **Town of Richfield** shall bear the costs to install and maintain the barricades on Lakeview Road.

8. That, in the event that the Town of Richfield shall approve the terms of this Order on November 18, 2004, undertake the reconstruction of Lakeview Road to the standards set forth above in an expeditious manner with completion thereof by December 1, 2005 and provide interim progress reports to this Office not less often than on 60-day intervals commencing January 1, 2005 which substantiate the likelihood of completion by said date, then

this proceeding will, on petition of the Town of Richfield, be reopened and this Order vacated. Further, in the event of such successful reconstruction, an order will issue from this Office directing that the Lakeview crossing shall be protected by the installation, without expense to the Town of Richfield, of automatic gates, flashing lights and constant warning time circuitry by January 1, 2008.

9. That jurisdiction is retained.

Dated at Madison, Wisconsin, this 10th day of December, 2004.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen, Commissioner

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